

§ 101.27

§ 101.27 Investigation of petition; withdrawals and dismissals.

(a) Upon receipt of the petition in the Regional Office, it is filed, docketed, and assigned to a member of the staff, usually a field examiner, for investigation. The field examiner conducts an investigation to ascertain:

(1) Whether the employer's operations affect commerce within the meaning of the Act,

(2) Whether there is in effect an agreement requiring as a condition of employment membership in a labor organization,

(3) Whether the petitioner has been authorized by at least 30 percent of the employees to file such a petition, and

(4) Whether an election would effectuate the policies of the Act by providing for a free expression of choice by the employees.

The evidence of designation submitted by the petitioner, usually in the form of cards signed by individual employees authorizing the filing of such a petition, is checked to determine the proportion of employees who desire rescission.

(b) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that an election is inappropriate, because, among other possible reasons, the petitioner's card-showing is insufficient to meet the 30-percent statutory requirement referred to in subsection (a) of this section.

(c) For the same or similar reasons the Regional Director may request the petitioner to withdraw its petition. If the petitioner, despite the Regional Director's recommendation, refuses to withdraw the petition, the Regional Director then dismisses the petition, stating the grounds for his dismissal and informing the petitioner of the right of appeal to the Board in Washington, DC. The petitioner may within 14 days appeal from the Regional Director's dismissal by filing such request with the Board in Washington, DC. The request shall contain a complete statement setting forth the facts and reasons upon which the request is made. After a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds for its affirmance, or may di-

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rect the Regional Director to take further action.

§ 101.28 Consent agreements providing for election.

The Board makes available to the parties two types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as (a) consent-election agreement followed by Regional Director's determination, and (b) stipulated election agreement followed by Board certification. Forms for use in these informal procedures are available in the Regional Offices. The procedures to be used in connection with a consent-election agreement providing for Regional Director's determination and a stipulated election agreement providing for Board certification are the same as those already described in subpart C of the Statements of Procedure in connection with similar agreements in representation cases under section 9(c) of the Act, except that no provision is made for runoff elections.

§ 101.29 Procedure respecting election conducted without hearing.

If the Regional Director determines that the case is an appropriate one for election without formal hearing, an election is conducted as quickly as possible among the employees and upon the conclusion of the election the Regional Director makes available to the parties a tally of ballots. The parties, however, have an opportunity to make appropriate challenges and objections to the conduct of the election and they have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in subpart C of the Statements of Procedure in connection with the postelection procedures in representation cases under section 9(c) of the Act, except that no provision is made for a runoff election. If no such objections are filed within 7 days and if the challenged ballots are insufficient in number to affect the results of the election, the Regional Director issues to the parties a certification of the results of the election, with the